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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RUDY DE JESUS MORENO,

Defendant - Appellant.

No. 07-10223

D.C. No. CR-06-00148-BES

MEMORANDUM *

Appeal from the United States District Court
for the District of Nevada
Brian E. Sandoval, District Judge, Presiding

Submitted November 13, 2007**

Before: McKEOWN, TALLMAN and CLIFTON, Circuit Judges.

The parties' joint motion for summary reversal and remand is granted, and defendant's sentence is vacated. *See United States v. Vidal*, No. 04-50185, 2007 WL 2937015 (9th Cir. Oct. 10, 2007) (en banc).

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

07-10223

This appeal is remanded to the district court for the purpose of re-sentencing defendant.

VACATED and REMANDED.